



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,411	03/24/2004	Frank Muir	08740001AA	3860

30743 7590 03/16/2006

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

EXAMINER

DANIELS, MATTHEW J

ART UNIT	PAPER NUMBER
----------	--------------

1732

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	10/807,411	MUIR, FRANK	
	Examiner	Art Unit	
	Matthew J. Daniels	1732	

All participants (applicant, applicant's representative, PTO personnel):

(1) Matthew J. Daniels.

(3) Michael Whitham.

(2) Frank Muir.

(4) _____.

Date of Interview: 14 March 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1,6,11,17 and 18.

Identification of prior art discussed: Owens, Towns, Harris.


Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's counsel submitted the enclosed draft claim amendments for discussion. Applicant's counsel argued that Owens does not teach a bottle cap. The Examiner responded that the article of Owens could be used as a bottle cap, and that this feature does not appear to distinguish the claim from the method of Owens. The Examiner also noted that the amended claim includes threads without any particular orientation, and that Owens' Figure 30 still appears to read on the amended claim. Applicant's counsel argued that Claim 6 distinguishes the invention from the method of Owens because the reference does not select a radius based on the bottle size. The Examiner responded that because the claim is directed at a single step of selecting, and because Owens teaches providing at least one radius to accommodate at least one bore, that this aspect is inherent in the method of Owens. Applicant's counsel argued that Claim 11 distinguishes the invention because Owens requires high quality optical parts, and the invention can be provided with a frosted glass appearance. The Examiner responded that Owens' parts appear to be translucent and transparent, and suggested that any available definitions in the specification be used to distinguish the two appearances. Applicant's counsel argued that Claim 17 distinguishes the invention because it provides a lens which extends to the perimeter of the engagement portion. The Examiner responded that Harris' Figure 5 appears to show the extending, and added that 4:26-34 also teaches threads. Applicant's counsel also argued that Claim 18 distinguishes the invention because of the simultaneous formation of the lens and the bottle engaging portion. The Examiner responded that Towns teaches compression molding at 2:9, and could be used in combination with Owens. The Examiner further added that claim amendments which limit the method rather than the shape of the article produced may be helpful in distinguishing the claimed method from the prior art.

Docket: 08740001aa

2

Listing of the Claims:

The following is a complete listing of all the claims in the application, with an indication of the status of each:

1. (Currently amended) A method of making a bottle cap with a built-in magnification feature, comprising the step of pressing a single piece of plastic into the shape of a bottle cap having a top portion and an annular bottle engaging portion which includes either thread engaging members or a lid wall with an inwardly projecting hook region at its base for selectively affixing the bottle cap to a top of a bottle, said top portion having upper and lower surfaces wherein at least one of said upper and lower surfaces is convex ~~and having a perimeter that extends to said annular bottle engaging portion~~, said upper and lower surfaces providing so as to provide optical magnification of objects viewed through said top portion.

2. (Original) The method of claim 1 wherein said pressing step is achieved using a stamping machine.

3. (Original) The method of claim 1 wherein said annular bottle engaging portion includes thread engaging members.

4. (Original) The method of claim 1 wherein said annular bottle engaging portion includes a lid wall with an inwardly projecting hook region at its base.

5. Canceled

6. (Original) The method of claim 1 further comprising the step of selecting a radius of curvature for said upper and lower convex surfaces based on a diameter of said bottle cap.

7. (Original) The method of claim 6 wherein said upper and lower surfaces are convex and having an equal radius of curvature.

Docket: 08740001aa

3

8. (Original) The method of claim 6 wherein said upper surface and said lower surface have different radii of curvature of their convex surfaces.

9. (Original) The method of claim 6 wherein said upper surface is flat and said lower surface is convex.

10. (Currently amended) The method of claim 1 wherein said single piece of plastic is transparent.

11. (Currently amended) The method of claim 1 wherein said single piece of plastic is translucent.

12-16. Canceled

17. (New) The method of claim 1 wherein said at least one of said upper and lower surfaces has a perimeter which extends to an edge of said annular bottle engaging portion.

18. (New) The method of claim 1 wherein said step of pressing simultaneously forms the annular bottle engaging portion and said top portion having upper and lower surfaces wherein at least one of said upper and lower surfaces is convex.

Docket: 08740001aa

4

REMARKS

Claims 12-16 have been canceled without prejudice as being drawn to a non-elected invention. Claim 5 is related to the subject matter of claims 12-16 and has also been canceled without prejudice. Claims 1, 10 and 11 have been amended. New claims 17 and 18 have been added.

Claims 1, 10 and 11 have been added to emphasize that a single piece of plastic is used to make the bottle cap. Claim 1 highlights that the annular bottle engaging means is either threaded or has a locking hook (see Figures 6a-6c of the application; and claims 3-4). New claim 17 includes some of the subject matter canceled from original claim 1 and requires the convex shape have a perimeter which extends to the edge of the annular bottle engaging member (see Figures 6a-6c). New claim 18 requires that the lens portion and the annular bottle engaging member are formed simultaneously. Support for each of these amendments and new claims can be found throughout the application, but especially at page 8, lines 18-26 which reads as follows:

“The pressing step is preferably performed using a stamping (claim 2) machine whereby the resulting upper and lower convex surfaces are formed having a perimeter extending to the annular bottle engaging portion (claim 17) 114. The annular bottle engaging portion 114 of the bottle cap and the lens 111 are formed from a single piece of plastic (claims 1, 10, 11), preferably formed simultaneously (claim 18), during the stamping process; or, alternatively, prior to or following lens formation, or a combination thereof depending on the attachment method (e.g. thread engaging members, projecting hook regions (claim 1), etc.) for connecting the annular bottle engaging portion 114 to the cap engaging portion of the bottle 120.” (Emphasis added and citation to claims added)

Claims 1-3, 6, 7, and 9-11 have been rejected as being anticipated by U.S. Patent 2,635,289 to Owens. Claim 4 has been rejected as being obvious over Owens in view of U.S. Patent 2,669,369 to Towns. Claim 5 has been rejected as being obvious over Owens in view of U.S. Patent 4,401,434 to Harris. Claim 8 has been rejected as being obvious over Owens. Each of these rejections are

Docket: 08740001aa

5

traversed in view of the amendments above and remarks below.

The principle reference to Owens is directed to methods of making optical and other precision elements, as is best set forth in the title. At the outset, the undersigned disputes Owens teaching in any manner the formation of a bottle cap of any kind. Rather, Owens teaches precision magnification lenses used in glasses, instruments, cameras and other devices. Owens teaches the use of highly polished glass punches and glass dies for molding the lenses out of glass or laminated materials (Figure 62 referenced by the Examiner); see columns 11 and 12 of Owens.

To highlight differences between the claimed method of claim 1, and the processes described in Owens, claim 1 now recites that a single piece of plastic into the shape of a bottle cap having a top portion and an annular bottle engaging portion which includes either thread engaging members or a lid wall with an inwardly projecting hook region at its base for selectively affixing the bottle cap to a top of a bottle, said top portion having upper and lower surfaces wherein at least one of said upper and lower surfaces is convex so as to provide optical magnification of objects viewed through said top portion. The Examiner will recognize that in Owens, a bottle cap is not being formed. Rather, Figure 30 of Owens shows a lens with a filter 288 which is fitted to a precision instrument. Column 20, lines 32-44 indicates that an external thread is included to fit to an internal thread within an instrument. This aligns the lens or "light transmitting body 281" for use in the instrument. In sharp contrast, claim 1 of the present application recites that a single piece of plastic is pressed into the shape of a bottle cap with features such as thread engaging members and hook regions which permit it to be selectively affixed to the top of a bottle. Owens, which clearly does not show a process for forming a bottle cap that fits on the top of a bottle, simply lacks these features and does not anticipate the claimed invention.

Owens alone would also not make the claimed invention to one of ordinary skill in the art. Owens is directed to making precision optical elements used in cameras, eyeglasses, and instruments. In sharp contrast, the present invention is related to making a disposable bottle caps which would be used on, for example, medicine bottles. The lens of the claimed invention is basically used for enlarging

Docket: 08740001aa

6

the text on a bottle after the cap is removed. In contrast, the Owens design and methods are intended for making a lens which is used as an integral part of the instrument, camera, eyeglasses, etc. Owens does not describe or suggest a technique for forming a convex lens together with an annular bottle engaging feature which allows the device to be selectively affixed to the top of a bottle.

One of ordinary skill in the art would not combine Owens with U.S. Patent 2,669,369 Towns as suggested by the Examiner. Towns describes an air tight stopper which would be used on a soda bottle. Towns has features for tightly gripping inside and outside the opening to a soda bottle such that carbonation would be retained for longer periods. Towns does not suggest any utility for the bottle cap other than as a stopper. Further, since the Towns bottle cap is being used as stopper on a soda bottle, there would be no reason to suggest modifying the Towns bottle cap to include a magnification lens feature (i.e., there is no need to determine dosing, etc., from a bottle of soda). Further, one of ordinary skill in the art would not seek to modify lenses used in precision instruments with a stopper feature as set forth in Towns.

With regard to claim 6, it should be understood that the method contemplates selecting the radius of curvature based on the size of the bottle cap. It will be recognized that medicine bottles, for example, come in different sizes and have different sized caps. Owens, which does not describe a process for forming bottle caps, would never have anticipate or make obvious this step. This is because Owens is concerned with making lens for specific instruments, cameras, etc. As such, the step of selecting the radius of curvature based on the size of the bottle cap would not be obvious to one of ordinary skill in the art on review of Owens since Owens describes no techniques for managing different sized devices, much less different sized bottle caps. Each of claims 7-9 depend from claim 6 and would not be obvious for these same reasons.

With regard to claim 11, Owens in no way teaches having a translucent material (see Examiner's reference to Title, 4:14, and 11:69-12:33). In the passages referenced by the Examiner, it is made clear that Owens is using a plastic material (e.g., lucite) which is transparent so that he can make lense for precision applications. As noted above, the claimed invention provides a process for

Docket: 08740001aa

7

making a bottle cap where the bottle cap has a magnification feature to allow a person to read, for example, labels on medicine bottles. Translucent materials will fulfill this application; however, they would not be acceptable in and are not suggested by Owens.

With regard to claim 17, as noted above, Owens does not suggest formation of a bottle cap and, therefore, does not suggest having the lens perimeter extend to the edge of the bottle engaging portion. If Owens were combined with Towns (which as noted above would be an improper hindsight reconstruction), the lens would not extend to the edge of the bottle engaging member. As noted in Figures 5 and 6, Towns contemplates an inner flange which does not secure the cap to the bottle, in addition to the outer tabs 24 which do secure the bottle cap to the bottle. Thus, any combination of Owens and Towns would not permit the perimeter of the lens to extend to the tabs 24.

With regard to claim 18, Owens alone or in combination with any reference record would not suggest the simultaneous formation of the magnifying top portion and the annular engagement portion. None of the references, including Owens, suggest a simultaneous formation operation.

Claim 5 has been canceled, and Harris has only been relied upon in the context of the Harris reference. However, Harris would not make up for the deficiencies of Owens as it does not describe a bottle cap formed from a single piece of plastic. Rather, Harris shows a lens 64 fitted into the rim of a package which holds tweezers. In sharp contrast, the claimed invention is focused on a methodology whereby bottle caps are formed from a single piece of plastic into a shape which allows them to be accommodated on the top of a bottle.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1-4, 6-11, and 17-18 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary

Docket: 08740001aa

8

for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

Michael E. Whitham
Reg. No. 32,635

Whitham, Curtis & Christofferson, P.C.
11491 Sunset Hills Road, Suite 340
Reston, VA 20190

Tel. (703) 787-9400
Fax. (703) 787-7557

Customer No.: 30743